

THE BOUNDARY OF THE UNITED STATES. SAN JUAN.

THE boundary line between the United States and Great Britain is now settled from the Atlantic to the Pacific, a distance of more than three thousand miles. It has thus been settled at different times. For a portion of the long extent, the Great Lakes form a natural boundary. For a much longer extent, the forty-ninth parallel of latitude, a purely artificial and arbitrary line has been agreed upon. The only points that have given rise to difficulty have been the two extremities of the boundary at the north-east and at the north-west. It is a little singular that in both cases the trouble has arisen in the practical interpretation of words intended to define a natural boundary, — a natural boundary being one that, in theory at least, describes itself. The treaty of peace between the United States and Great Britain fixed the north-eastern boundary in the "highlands which divide those rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic Ocean;" and the question which arose was geographical, — to find just where those "highlands" were. On the north-west, the treaty of 1846 fixed the boundary in the "channel which separates the continent from Vancouver's Island;" and the question which arose was to find where that channel lies.

The former question was settled, after years of controversy, by the Ashburton Treaty, in 1842. The latter question arose within a few years after the treaty of 1846. From its nature, it baffled all attempts at solution by discussion between the two governments; and its solution by arbitration was agreed to as a part of the Treaty of Washington, of May 8th, 1871, — the same treaty which provided the way for the adjustment, at Geneva, of the Alabama claims. By the terms of this treaty, the German Emperor was made the arbitrator; and the representatives of the United States and of Great Britain at Berlin respectively were made the agents of their governments to conduct their cases before him.

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Under this arrangement, the management of the case at Berlin, in behalf of the United States, devolved upon Mr. Bancroft, our minister at that capital; and he appears to have prepared the papers upon the American side, no doubt under instructions, more or less general or specific, from the Department of State at Washington. On the other side, the province of Mr. Odo Russell, the British minister at Berlin, would seem to have been confined to formal acts of communication with the German government. Admiral Prevost (who had been commissioner on the part of Great Britain for laying down the boundary under the treaty of 1846) appears to have brought to Berlin the papers on the British side, and to have resided at that capital during the greater part of the time that the case was under consideration by the Emperor. These papers were probably prepared in the Foreign Office at London, and were no doubt the work of various hands.

We need cite but two documents in order to state the whole case as it rested with the arbitrator. The first is an extract from the treaty between the United States and Great Britain, 15th June, 1846:—

Article I. From the point on the forty-ninth parallel of north latitude where the boundary laid down in existing treaties and conventions between the United States and Great Britain terminates, the line of boundary between the territories of the United States and those of Her Britannic Majesty shall be continued westward along the said forty-ninth parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly through the middle of said channel, and of Fuca's Straits, to the Pacific Ocean; provided, however, that the navigation of the whole of said channel and straits south of the forty-ninth parallel of north latitude remain free and open to both parties.

Second, from the Treaty of Washington, 8th May, 1871:—

Article XXXIV. Whereas, it was stipulated by Article I. of the treaty concluded at Washington on the 15th of June, 1846, between the United States and Her Britannic Majesty, that the line of boundary between the territories of the United States and those of Her Britannic Majesty, from the point on the forty-ninth parallel of north latitude up to which it had already been ascertained, should be continued westward along the said parallel of north latitude "to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly, through the middle of the said channel and of Fuca Straits, to the Pacific Ocean;"

and, whereas, the commissioners appointed by the two high contracting parties to determine that portion of the boundary which runs southerly through the middle of the channel aforesaid, were unable to agree upon the same; and, whereas, the government of Her Britannic Majesty claims that such boundary line should, under the terms of the treaty above recited, be run through the Rosario Straits, and the government of the United States claims that it should be run through the Canal de Haro, it is agreed that the respective claims of the government of the United States and of the government of Her Britannic Majesty shall be submitted to the arbitration and award of His Majesty the Emperor of Germany, who, having regard to the above-mentioned article of the said treaty, shall decide thereupon, finally and without appeal, which of those claims is most in accordance with the true interpretation of the treaty of June 15, 1846.

The earlier treaty thus defined the boundary in certain terms; a difference arose respecting their meaning; the second treaty states the claim of each party, and invites the German Emperor to decide which of those claims is "most in accordance" with the true interpretation of the earlier treaty.

Which is *the more* in accordance with the true interpretation of the treaty of 1846 would have been a phrase more rigidly in compliance with the strict rules of grammar. We mention this point (of course of no practical importance) merely to illustrate the extreme simplicity of the question presented to the arbitrator. He was not invited to make a new boundary for the two countries. The arbitration, by the act of both parties, proceeded on the theory that the boundary had been, in fact, determined by the treaty of 1846. Nor was he even called upon to examine and decide at large where the line should be run in order to accord with the definition of 1846, but was limited to two particular lines, one being claimed by the United States and the other by Great Britain, as being, in fact, the line described, or attempted to be described, by the earlier treaty. If the question had been put nakedly, without the use of the word "most," or some phrase of equivalent force, even if the question had still been confined to the two lines claimed respectively by each of the two nations, the German Emperor might have answered, and probably would have answered, that *neither* of those lines exactly fulfilled the conditions of the treaty of 1846, and thus the arbitration would have left the question in dispute precisely where it was before.

We say that the German Emperor might have made this answer, and probably would have made it, because that would have been the true answer. The fact is, that the language of the treaty of 1846, taken by itself, betrays an imperfect knowledge of the geography of the premises. It speaks of "the channel which separates the continent from Vancouver's Island." This form of language would leave no difficulty in interpretation, if we had to deal only with the continent and with Vancouver's Island. But even ordinary maps in use at the time, drawn upon a small scale, showed at least one or two islands lying to the east of Vancouver's Island, between it and the mainland; and the very perfect surveys which have now been made on both sides show that between Vancouver's Island and the mainland there are at least forty or fifty islands south of the parallel of 49° , most of which are very small, that of San Juan, which is the largest, having an area of scarcely one hundred square miles. The space which "separates the continent from Vancouver's Island" is, in fact, rather an *archipelago* than a channel. Among so many islands are, of course, almost as many passages. A Rob-Roy canoe traveller, who should choose to amuse himself by threading his course among them in as great a variety of ways as possible, would be able to make innumerable voyages from north to south, or in the opposite direction, before he would exhaust all possible variations. But setting aside, on the one hand, narrow passages navigable for canoes, and, on the other, variations from the principal courses, unimportant as affecting the practical question, the number of passages sufficiently considerable to lay any possible claim to the title of "the channel" is reduced to two, — one to the west and the other to the east of the cluster of islands of which San Juan is the principal and the most western.

It was accordingly quite natural that the dispute should arise, which, in point of fact, did arise, as soon as commissioners met on the spot to lay down the boundary. It was natural that Great Britain should claim as the boundary that one of the two passages among the islands which is nearer the continent, and that the United States should claim that one of these two passages which is nearer Vancouver's Island.

It was natural enough that this dispute should arise; but in making a claim for the more eastern passage, and in adhering to it at the last, the agents of Great Britain took the step which led

in the end to their utter discomfiture. It is conclusively shown by Mr. Bancroft that this more eastern passage never had a name till it received, during the discussions subsequent to 1846, that of the Rosario Straits (a name originally belonging in a different locality); and in fact Mr. Bancroft is inclined to dispute its right to be called a channel at all. On the other hand, the more western channel, that directly between Vancouver's Island and the island of San Juan, has been known from the earliest times as the Canal de Haro, or Arro, as it is written on the older maps, and is, beyond all question, entitled to be called "the channel." This fact is proved by a formidable array of geographical and nautical evidence.

Independently, therefore, of an entirely different class of considerations leading to the same conclusion, the German Emperor, when called upon to decide between these two particular passages, with reference to the words of the treaty of 1846, could scarcely refrain from giving the preference to the Canal de Haro on purely geographical grounds. Neither the Canal de Haro, nor what are now called the Rosario Straits, "separate the continent from Vancouver's Island" in the sense of being *all* that separates them; both lie between the continent and Vancouver's Island, and the former is the principal and more important passage.

But the decision would have been less certainly in our favor had the British taken from the outset and adhered throughout, to the ground which was proposed in 1857 by Captain Prevost, their commissioner to lay down the boundary, and upon which they rested their latest proposal in the joint high commission before the arbitration was agreed to. This proposal was in substance that the words of the treaty of 1846 should be regarded as descriptive of the whole *space* between Vancouver's Island and the continent, and that the line should be run through the middle of that space, — cutting through the archipelago of small islands where it might.

There would have been a certain plausibility in this solution of the question. But, as will appear more clearly presently, it would have in effect given to Great Britain all that is of consequence in the question; so that this solution, or even the presentation of the question for arbitration in any terms which would have admitted such a solution, would have been inadmissible on the part of the United States.

The case of the United States by no means rested on the strength of the claims of the Canal de Haro to the title of "the channel" in a geographical point of view. Mr. Bancroft aimed to show that the Canal de Haro was the channel in the minds of the parties when the treaty of 1846 was made. So far as regards the gentlemen engaged on the American side, he was perfectly successful. There can be no doubt that Mr. McLane, who was our minister in England at that time, and that the leading members of the United States Senate, which ratified the treaty, never entertained a shadow of doubt that its language described, and was intended to describe, the Canal de Haro. Official documents record their contemporaneous expressions of the most unequivocal character, in which the phrase in the treaty is mentioned without suspicion that it could mean any thing else than the Canal de Haro, or allow to Great Britain any territory south of the parallel of 49° , except the southern extremity of Vancouver's Island, which would have fallen to the United States had the parallel of 49° been made the boundary throughout to the Pacific Ocean.

This brings us to the history of the treaty of 1846.

The convention of 1818 between the United States and Great Britain carried the boundary from the Lake of the Woods (where it had been left by earlier treaties) to the Rocky Mountains, and established it for this extent upon the forty-ninth parallel. At that date, the boundary of the territory westward from the Rocky Mountains was left undefined. For a considerable time, by the consent of both governments officially expressed, it remained free to the people of both countries, without prejudice to the title, or claims to title, on the part of either government. But from an early day efforts were made to define the boundary by treaty. The United States frequently proposed to carry the parallel of 49° westward to the Pacific. Great Britain invariably refused this proposition, probably under the influence of the Hudson's Bay Company, which had some stations south of that parallel.

It will be remembered that in those days, when the north-western part of the continent was a wilderness, more regard was had for islands lying off the coast, ports and harbors, and rivers giving access to the interior, than for areas of land upon the continent, however considerable, then difficult of approach and unsettled.

The Columbia River falls into the Pacific Ocean at a point considerably south of 49° . It was with a good deal of difficulty that the British statesmen could persuade themselves to agree to any boundary which should give the United States any thing north of the Columbia River. The forty-ninth parallel was not only north of the right bank of the Columbia River during the whole or nearly the whole of the navigable part of its course, but if adopted as the boundary throughout to the Pacific Ocean, it would pass directly across Vancouver's Island, and throw into the possession of the United States the southern extremity of that island, about one-fifth of its whole area; and thus give to the United States the command by land of both sides of the Straits of Fuca, which also lie south of the parallel of 49° , and which, like the Columbia River, are an important means of communication with the interior, being the avenue leading to the mouth of Frazer's River and other waters.

Whenever, therefore, the discussion came to close quarters, it was evident that no arrangement could be made, unless means could be found to satisfy Great Britain as regards the navigation of the Columbia River and the possession of the whole of Vancouver's Island. For the rest, British statesmen were quite ready to agree to the parallel of 49° .

Meanwhile, an excitement was growing up in the United States on the subject; the strength of our claim to the whole territory as far north as $54^{\circ} 40'$, was asserted by popular orators; and the two houses of Congress directed official notice to be given to Great Britain for the termination of the then subsisting arrangement for the joint occupation of the whole territory.

During this period of excitement earnest efforts were making in both countries to find a way of adjusting the boundary, consistent with the honor and dignity of both powers, and therefore not inconsistent with the position in which either of them found itself placed by its previous action. Such an adjustment was found in adhering to the parallel of 49° as the principle of the boundary; but, allowing to British subjects, the free navigation of that stream, and of its great northern branch, south of the parallel, and allowing also to Great Britain the whole of Vancouver's Island.

This arrangement, as regards the boundary, was suggested to Lord Aberdeen by Mr. Everett, upon his own responsibility, in

1843; and substantially the same arrangement was publicly proposed by Mr. William Sturgis, in a lecture before the Mercantile Library Association in Boston, in January, 1845. Mr. Sturgis's lecture was printed, with a map showing the boundary he proposed. Copies were circulated in England as well as in this country. Although drawn upon a very small scale, the map plainly shows the boundary line drawn near to Vancouver's Island at the east, and between that island and two small islands lying between it and the mainland.

The proposition for thus settling the boundary on the principle of the parallel of 49° , but with such a variation as to allow to Great Britain the whole of Vancouver's Island, was received with favor on both sides of the Atlantic.

There is no doubt that, with the express purpose of coming, if possible, to an amicable adjustment of the boundary question, which it had been thought essential should be treated in Washington, Lord Aberdeen, in 1843, recalled Mr. Fox, who had been the British minister there, and appointed in his place Mr. Pakenham, who, it was hoped, would prove a more successful negotiator. These hopes, however, with regard to Mr. Pakenham, were disappointed; and finally Lord Aberdeen, in 1846, practically took the whole matter into his own hands.

While the negotiation nominally continued at Washington, Lord Aberdeen caused the draught of a treaty to be prepared in the Foreign Office in London, and sent it over to Mr. Pakenham. Mr. Pakenham at once communicated it, as a basis for negotiation, to Mr. Buchanan, then Secretary of State under President Polk. Departing in some degree from recent usage, and reverting to a frequent practice of President Washington in his relations with the Senate as a part of the treaty-making power, President Polk submitted Lord Aberdeen's draught to the Senate, as a proposal for a treaty. The Senate, after due deliberation, passed a resolution advising its acceptance. This action of the Senate was anticipatory of the advice and consent required by the Constitution for treaties after they have been made. Fortified by the opinion of the Senate, Mr. Buchanan required but short time with Mr. Pakenham for the formal "negotiations;" the treaty was agreed to by them, and was again laid before the Senate, this time as a treaty already concluded; and again, after due deliberation, the Senate advised and consented to it, this time in the sense of

the Constitution; and it was without delay ratified on the part of both governments.

Lord Aberdeen's draught was sent from London on the 18th of May, 1846; the treaty was signed by Mr. Buchanan and Mr. Pakenham on the 15th of June, and the vote of the Senate, advising and consenting to the ratification, took place on the 18th of June, or precisely one calendar month from the time the draught left Lord Aberdeen's hands. The formal exchange of ratifications took place at London on the 17th of July.

In these proceedings, no alteration of a single word even, so far as regards the boundary line, was made in the draught that was sent over from London by Lord Aberdeen.

From the peculiar way in which the treaty was thus originated and negotiated, there are no preliminary "protocols" connected with it. There is, it would seem, a memorandum of the interview between Mr. Buchanan and Mr. Pakenham, at which the latter presented the draught. This memorandum is not printed in the volume before us, and probably simply records the fact that Mr. Pakenham offered a draught of a treaty. The language of the draught, now become without change the language of the treaty, is left to speak for itself.

Under these circumstances, in order to ascertain the sense in which the words of the draught were understood by the parties, it would seem reasonable to refer to the official correspondence of Mr. Everett and Mr. McLane, our ministers in London, recording their conversations with Lord Aberdeen preliminary to the draught prepared under his direction, and to other contemporaneous records showing the state of public opinion in the two countries on the subject. But Great Britain, in the definitive statement presented to the arbitrator at Berlin, took the ground that this sort of evidence is beside the question. The readers of this journal will probably acquiesce in the technical accuracy of this point.

Nevertheless, the evidence which the lawyers on the British side would thus exclude, would seem to be admissible at least to *illustrate* the language used in the treaty. It is of overwhelming strength, to show that the United States on their side never meant to give up to Great Britain any territory south of the parallel of 49° except the southern portion of Vancouver's Island.

The parallel of 49° was the radical principle of the boundary.

A variation to accord to Great Britain a piece of Vancouver's Island south of that line was the *ultimatum* of concession on the American side, — "ultimatissimum," Mr. Bancroft happily calls it. The treaty was possible of acceptance, because it was believed on our side that it embodied and faithfully described this arrangement.

In his official despatch to Mr. Buchanan, by the same packet which carried from Lord Aberdeen to Mr. Pakenham the draught of the treaty, Mr. McLane, fresh from an interview with Lord Aberdeen, who had described it to him, spoke of it in express terms as making the Canal de Haro the boundary; and it was so described in the Senate by Mr. Webster and by Mr. Benton in the discussion in that body on both occasions when the subject was before it.

Let us now turn to the correspondence on the British side between Lord Aberdeen and Mr. Pakenham. In a despatch of the same date as that which covered the draught of the treaty, Lord Aberdeen, writing to Mr. Pakenham, describes the proposed boundary as follows: "To be continued along the forty-ninth parallel from the Rocky Mountains to the sea-coast; and from thence in a southerly direction through the centre of *King George's Sound* and the Straits of Juan de Fuca to the Pacific Ocean, leaving the whole of Vancouver's Island, with its ports and harbors, in the possession of Great Britain."

Observe, this is Lord Aberdeen's official instruction, contemporaneous with the treaty, and describing its purport as he meant it should be understood. "King George's Sound"!

King George's Sound was a name given by Captain Cook in 1778 to what is now known as Nootka Sound, a place on the *western* side of Vancouver's Island, *north* of the forty-ninth parallel; and of course having not the remotest connection with any boundary line to be drawn *east* of Vancouver's Island and *south* of 49°.

Of course Lord Aberdeen wrote "King George's Sound" by a slip of the pen for something else. For what? This is sheer conjecture. If it were "Canal de Haro," which Mr. McLane wrote on the same day to his chief as the description of the same thing, then every thing is clear as sunlight; and but for the unfortunate slip of the pen this whole controversy need never have arisen, and the arbitration of the German Emperor need never have been invoked.

He certainly did not write "Rosario Straits;" that name for the channel claimed as the boundary by the British government was then unknown. It has been ingeniously suggested that Lord Aberdeen simply miscalled the "Gulf of Georgia" in writing "King George's Sound." There is a trace of George, no doubt, in both expressions; but this suggestion is open to the objection (which seems to us conclusive) that, in that case, Lord Aberdeen, in professing to describe the boundary, omitted to describe the only part which needed description. There is no question that in running westward on the forty-ninth parallel, as soon as the mainland is left, the water which is reached is the Gulf of Georgia; here *must be* the northerly point of the water line, which, accordingly, needs no description. There is no question that the Straits of Fuca make the southern part of the boundary line, for they are expressly mentioned by name in the treaty of 1846. It is precisely the piece of the line that comes between its beginning on the 49th parallel and its end in the Straits of Fuca that needs description; and here Lord Aberdeen's unfortunate slip of the pen gives us no light.

But whatever may have been intended by the phrase "King George's Sound," it is clear that Lord Aberdeen had in mind the same adjustment of the boundary which was understood on our side, from the fact that he concludes his description with the words "leaving the whole of Vancouver's Island, with its ports and harbors, in the possession of Great Britain." This was precisely the extent of the concession which it was believed might be made on the part of the United States. If Lord Aberdeen was expecting something more, it would have been no more than prudent, in this instruction to his own minister, to have pointed out that not only Vancouver's Island but the smaller islands lying between it and the mainland were intended to be covered by the language he employed.

It must be observed that this was a private instruction from Lord Aberdeen to Mr. Pakenham, accompanying the draught of the treaty which was to be offered to the United States; but this instruction was not intended to be communicated to the United States government, and in point of fact was not thus communicated until many years afterwards. And as late as 1859, Lord John Russell, in citing from the instruction, by a most unfortunate inadvertence, neglected to cite this closing sentence of

the description. Happily Lord Napier had shown the original despatch to Mr. Campbell, who very well remembered it.¹

Great Britain endeavored to supplement this vacuous piece of evidence with regard to the meaning attached on the British side to the language of the treaty of 1846 at the time it was made, by appealing, twelve years later, to the memories of Lord Aberdeen and Mr. Pakenham. It is easy to say that diplomatists proverbially have bad memories, or rather good ones; but it is not necessary to suppose that either Lord Aberdeen or Mr. Pakenham purposely forgot any thing. If the former were so confused about the names of the places that he could not call them rightly at the time, when officially instructing his minister, it is not strange that he could not remember them a dozen years later; while Mr. Pakenham had nothing to forget. He never was told any other than an obviously incorrect name for the channel proposed for the boundary; and, as it would seem, he never had the curiosity to inquire of his chief what was intended by "King George's Sound."

The question is often asked, why was it worth while to make a controversy upon a territorial question of so slight magnitude? This question is generally raised in each country with reference to the action of the other, but sometimes, in either country, by large-minded inquirers, in criticism of the action of their own government in protracting the controversy. What have the United States gained after all, it is asked, by the favorable decision of the German Emperor? The whole area comprised between the Rosario Straits and the Canal de Haro is but a few hundred square miles, and only part of this is land; San Juan is but a small island; why was it worth while to maintain a controversy and to invoke the machinery of arbitration with no greater interest at stake?

This question is natural. It is best answered, however, by another question: why was it worth while for Great Britain to insist

¹ Mr. Archibald Campbell was the commissioner in behalf of the United States to lay down the boundary under the treaty of 1846, when Captain (now Admiral) Prevost acted in a similar capacity in behalf of Great Britain. Their discussions on the spot were terminated in 1857, in the impossibility of coming to an agreement. Mr. Campbell has more recently been appointed commissioner on the part of the United States to mark the boundary on the forty-ninth parallel, between the Lake of the Woods and the Rocky Mountains: a similar, but distinct duty, in which he is at present engaged.

from the beginning in having the whole of Vancouver's Island? The forty-ninth parallel, as we have seen, had already been adopted as the boundary for thousands of miles across the continent; why should Great Britain repeatedly refuse the proposition of the United States to continue this boundary to the Pacific Ocean, let it cut Vancouver's Island where it might? The part of Vancouver's Island south of the parallel is but about one-fifth of the whole, so that the greater part of the island in any case would have belonged to Great Britain.

The explanation of the earnestness of Great Britain upon this point is the obvious circumstance that the entrance from the Pacific Ocean into the Straits of Fuca lies south of Vancouver's Island; and these straits, with the system of watercourses to which they lead, give access by water to a large extent of territory north as well as south of the parallel of 49°. Had that parallel been maintained as the boundary quite to the Pacific Ocean, giving the southern portion of Vancouver's Island to the United States, we should have commanded *both sides* of the entrance to the straits, that is, both sides of the water-passage from the ocean, not only to our own territory, but also to the British possessions in that part of the continent. By insisting on the southern portion of Vancouver's Island, Great Britain secured the command of one side of the passage, leaving to the United States, as would appear, the command of the other side, — an arrangement palpably just and impartial.

The British government seems always to have been strongly impressed with the equity of such an arrangement as should give to each country respectively the command on land of one side of the water-passage from the Pacific by the Straits of Fuca. As early as 1826, the United States had proposed the forty-ninth parallel as the boundary throughout from the Rocky Mountains to the Pacific, with free navigation by British subjects of the Columbia River. The British government proposed at that time that the Columbia River should be the boundary from the point where its head waters were intersected by the forty-ninth parallel; but as that would cut off the United States from the Straits of Fuca, the British government then formally proposed that the United States should have in addition a tract of territory on the Pacific, on the southern side of the straits, to be possessed in exclusive sovereignty.

In yielding, therefore, to Great Britain, in 1846, the southern portion of Vancouver's Island, we yielded only to an equitable plan, of the sincerity of her belief in which Great Britain had given the strongest proof, that the two countries should divide the command by land of the water-passage from the ocean into the interior. But this passage, which begins with the Straits of Fuca, continues by the Canal de Haro; and it was a necessary sequel of the arrangement that, while Great Britain commanded one side of the passage from Vancouver's Island, the United States should command the other, not only from the mainland at the south of the entrance to the Straits of Fuca, but from the island of San Juan, which makes the eastern side of the channel of the Canal de Haro.

In other words, had Great Britain been able to substantiate before the German Emperor the claim to the Rosario Straits as "the channel" mentioned in the treaty of 1846, we should have been in this position, that having acquiesced in giving to the British the southern portion of Vancouver's Island upon their suggestion that it was not reasonable that *we* should have command by land of *both* sides of the water-passage from the ocean inland, we should in effect have given to *them* the land command of both sides, — an arrangement obviously equally unreasonable, and in all respects unsatisfactory.

We have contented ourselves with a general review of those points brought forward in the solution of the controversy which, in our view, were of the chief importance in affecting the decision. Many others, which are interesting, were adduced, and more or less stress was laid upon them upon either side. For these we must refer the reader to the papers themselves, which happily are not voluminous. The principal documents are but four in number. The case in behalf of the United States was opened before the German Emperor by Mr. Bancroft's "memorial" in December, 1871; at the same time the "case of Great Britain" was submitted in behalf of that government. In June, 1872, were submitted the "reply of the United States" again by Mr. Bancroft, and the "second and definitive statement" of Great Britain. On the 21st of October, 1872, the German Emperor made his award, that "most in accordance with the true interpretation of the treaty" of 1846 "is the claim of the government of the

United States, that the boundary line between the territories of Her Britannic Majesty and the United States should be drawn through the Haro channel."

This is the whole of the award. There is a formal preamble, but no argument or statement of reasons for the decision. The only thing to be remarked about it is an accidental slip of the pen in describing the late Treaty of Washington by the date of the *sixth* of May, 1871. The true date is the *eighth*. This error exists in the original bearing the Emperor's autograph signature and the impression of the imperial great seal. From the circumstances of the case, it is not likely to be attended with the inconveniences which resulted from the similar accident in the use of the phrase "King George's Sound" in the preparation of Lord Aberdeen's instruction. The error is of no practical consequence whatever.

While the award is thus brief, the preliminary statements in behalf of each side are full of interesting matter. Each is accompanied by an appendix. Evidence in the shape of extracts from official correspondence, and numerous maps, were brought forward on each side. The second British statement is illustrated by an "historical note," to which is attached, for convenience of reference, a curious table giving the names of all the official personages who have been connected with the negotiations, from Lord Castlereagh to Lord Granville on one side, and President Munroe to President Grant, Mr. John Q. Adams to Mr. Fish, as their secretaries of state, on the other. This table gives the exact date of service of the several ministers and others having official part in the negotiations, and is valuable for other purposes besides the study of this particular question.

All of these papers make together the fifth volume of "Papers relating to the Treaty of Washington," accompanying the President's Message to Congress of December, 1872, — a document of 271 pages, which has been published since the preparation of the last number of this Review. The maps are included; most of them, we regret to say, reproduced in wretched lithography, unworthy of the government printing-office, and unlike its usual work. It may promote the convenience of those who have occasion to use the volume, if we remark that the list of maps presented in behalf of the United States (a part of which are interspersed among the pages of the text, and a part placed at

the end of the volume) is printed at page 189, that is, at the end of the second statement of the United States. All of the maps presented in behalf of Great Britain are placed at the end of the volume, preceded by a list of them.

If our space permitted, we should be glad to give some extracts from these official statements. We believe that none of them have found their way into the columns of the newspapers of either country. The "Memorial" of Mr. Bancroft, particularly, is an admirable piece of composition, whether regarded as an historical monograph or as a diplomatic argument. The country was peculiarly happy in the circumstance that it fell to Mr. Bancroft to conduct the case in its behalf. He was a member of the cabinet of President Polk when the treaty of 1846 was made. He was our minister in London when the pretensions of Great Britain to the island of San Juan were first broached. In his capacity of minister at Berlin, under the present administration, it devolved on him, in concert with his British colleague, to invite the German Emperor to assume the duty of arbitration; and it was then his duty to act as the agent of the United States in presenting and advocating their case. That this duty was performed wisely and well, the fact that a favorable result has been attained quietly and smoothly, is in itself a proof.

Indeed it is gratifying to be able to say that the whole affair has been conducted in a manner worthy of the great powers concerned. The United States and Great Britain held to their respective positions with firmness, argued them with decorum, and the result has been accepted without demonstration of triumph on one side or ebullition of ill temper on the other. The case was one eminently fit for arbitration, that is, for arbitration limited to a decision of the actual question at issue. The true statesmanship was shown when the Treaty of Washington was framed. For this, on the American side, the world is no doubt indebted to Mr. Fish and his colleagues in the Joint High Commission. A different way of putting the question would probably have led to a different and much less satisfactory result.